



John M. Searles
Superintendent

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**Michigan House Testimony on the Truancy Bills
Senate Bills 103 to 106
February 27, 2018**

My name is John M. Searles, and I have the privilege of serving as superintendent of the Midland County Educational Service Agency. Over the past 27 years as a public educator, I have taught English and Spanish to middle and high school students, served as a curriculum director at a large school district in West Michigan, and for the past 13 years as superintendent of a small rural district and at the Midland County ESA. Over the years, I have met many students who have struggled daily to make it to school. Most have had responsibilities far beyond what our society would deem as appropriate to their age. For example, I have met elementary-aged students who are responsible for cooking breakfast, when there was food in the house, helping their younger siblings get dressed in the morning, and then must get everyone to the bus stop on time. Similar stories are common across the state and are the result of current economic conditions facing many of our families.

The United Way has been publishing their ALICE Project data from 18 states across America. ALICE is an acronym for Asset Limited, Income Constrained, Employed. In Michigan, 40% of the working age population fits this designation. We might also call them the "working poor." And least you think that I come from an "affluent county" where these problems do not exist, please note that our number in Midland County is at 38%. The point is that many people are working very hard but are still struggling to survive. They are unable to purchase the necessities that you and I take for granted. Behind these figures are real families with students who sometimes find it difficult or impossible to come to school.

The proposed legislation will define truancy, help to align resources, and establish triggers that will require school administrators to meet with families and students to get to the root of attendance problems. Our work in Midland County, led by the Honorable Dorene Allen, has redefined how the schools partner with the court, the Department of Health and Human Services, Community Mental Health, the Juvenile Care Center, and other private providers. We work together to identify students who are struggling with truancy, meet as a team to better understand the specific barriers faced by each family, then work through various partnering agencies to remove those barriers. In an important way, this legislation will "mandate" collaboration and foster new partnerships among agencies who have resources aimed at helping families. When the limited resources of each of the partners are aligned and focused on the needs of students and their families, seemingly insurmountable roadblocks can be navigated, forever changing the trajectory of students.

Four years ago, I was appointed by Governor Snyder to the Mental Health Diversion Council as a school representative for youth. What I have learned in that time is that while there are a number of excellent examples of governmental agencies working together with schools on behalf of our children, these examples are more the exception rather than the rule. I have also learned that across our state, people believe that our children hold the promise of a bright future for Michigan, and they are willing to work hard on their behalf. This proposed legislation gives us a common language to discuss truancy and puts a real child's face on a problem that can be solved by a team of caring adults who advocate on behalf of that same child.

As you know, some of my colleagues oppose this legislation for many reasons, often citing the loss of local control. Let me say that it has been my experience that superintendents care deeply about the wellbeing, the achievement, and the future success of their students. Superintendents also know that missing school is strongly correlated with lower achievement over time. Therefore, it is critical that kids attend school, and barriers must be removed wherever present. While some have stated that the limits imposed by this legislation, coupled with the new reporting requirements, will adversely impact local school districts, I believe that the proposed compromises will create pupil accounting structures that will inadvertently miss students who are struggling to come to school, or who struggle to arrive on time.

In closing, let me restate that I believe most students who become chronically absent from school do so because of conditions beyond their control. Likewise, their parents are often ill equipped to problem solve solutions that may seem obvious to you and me. This legislation will initiate new conversations, foster partnerships among agencies, and develop new relationships that cultivate opportunities for success in school for many of Michigan's children who are often relegated to the shadows. We want every student in Michigan to flourish in school and beyond. Let's continue to work together to remove all impediments to success for our children. Thank you for the opportunity to speak to you today.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John M. Searles". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

John M. Searles

State of Michigan

MIDLAND COUNTY PROBATE COURT
FORTY-SECOND CIRCUIT COURT - FAMILY DIVISION

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Presiding Probate & Juvenile Judge

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March 2, 2018

Representative Jim Runestad
Committee Chair, 44th District
N-893 House Office Building
P.O. Box 30014
Lansing, MI 48909

Chairman Runestad:

I have summarized the concept of chronic absenteeism in this letter to clear any confusion hopefully. Then I have highlighted in the bills where chronic absenteeism is contained. MPJA is opposed to a separate cause of action for chronic absenteeism. We need to have graduated positive steps in the truancy protocol. The way to look at it is that chronic absenteeism is a systems issue. And truancy is an individual youth issue. And, further, chronic absenteeism will prevent truancy. That is the point. Especially if chronic absenteeism is an early view.

So, my explanation of chronic absenteeism is as follows:

The issue is whether chronic absenteeism (when a child is absent for 10% or more of the days school is in session) data should be used for early intervention or a final step with legal intervention. Chronic absenteeism data should be used to initiate help because early intervention prevents truancy.

Early intervention prevents juvenile justice involvement. National experts have found the importance of regular school attendance, successful strategies for reducing truancy, and school discipline all relate to students' success and juvenile justice involvement. The proposed legislation is aimed at early intervention to provide the initial help to children and families to prevent truancy. Chronic absence is one of the earliest indications we have that students are not on course. By tracking the number of absences a student has, whether they are excused, unexcused or disciplinary, we can take action at a point in time when prevention interventions are most likely to succeed.

Cause of chronic absenteeism. Education can only fulfill its role as the great equalizer to bridge the gap in differences in privilege when children are in school every day and receive the

support they need to learn and thrive. Many children experience tremendous adversity in their lives, including poverty, health issues, domestic violence, and other difficult family situations – all that make it difficult for them to take advantage of the opportunity to learn at school.

Effects of chronic absenteeism. Chronic absenteeism can be devastating. Chronic absenteeism may prevent children from reaching early learning milestones and they are at serious risk of falling behind in school. According to the United States Department of Education, children who are chronically absent in preschool, kindergarten, and first grade are much less likely to read at grade level by the third grade.

Chronic absenteeism is an early predictor of dropping out. Students who cannot read at grade level by the end of third grade are four times more likely than proficient readers to drop out of high school. Irregular attendance can be a better predictor of whether students will drop out before graduation than test scores. A study of public school students in Utah found that an incidence of chronic absenteeism in even a single year between 8th and 12th grade was associated with a seven-fold increase in the likelihood of dropping out.

Chronic absenteeism shapes adulthood. Frequent absences from school can shape adulthood. High school dropout, which chronically absent students are more likely to experience, has been linked to poor outcomes later in life, from poverty and diminished health to involvement in the criminal justice system.

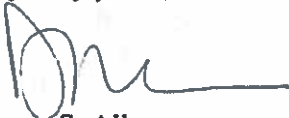
Most challenged students miss more school. The very students who tend to face significant challenges and need the most educational supports are often missing the most school. Chronic absenteeism deserves careful attention and action since our ability to identify and support chronically absent students and their families has the potential to reduce the achievement gap, turn around under performing schools, and increase students' readiness for college and careers.

Where does truancy and legal intervention fit? Truancy and legal intervention should represent the final step in a school or district's effort to improve student attendance. This step often requires a combination of efforts from schools, school districts, as well as the juvenile justice system and juvenile courts.

I am certainly open to meeting with the school groups on this. It would have to be via telephone as I have a rigid prior commitment for this coming Tuesday. But I am available all day Monday.

I want to thank you again for your continuing support of this legislation.

Very truly yours,



Dorene S. Allen
Presiding Probate & Juvenile Court Judge Midland County

State of Michigan

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March 2, 2018

Representative Jim Runestad
Committee Chair, District 44
N-893 House Office Building
Lansing, MI 48933

Dear Chairman Runested:

Questions were asked at the committee hearing this week regarding where in the proposed legislation discretion is allowed. I am providing you through this letter with the areas of that legislation that provide for that. I am also providing the sections that allow for choice of parents (as opposed to discretion). I believe it is clear that this is a big part of the legislation all the while providing the framework for positive interventions.

Discretion for Schools and Parents

SB103:

Page 11, line 22 – gives the parent discretion to stop sending the child to school, the parent must notify school of withdrawal and provide the date child enrolled in another school or program

Page 13, lines 6-12 – gives the parent discretion to submit documentation in native language

Page 14, line 23 to 24 - gives the school discretion to excuse absences for emergencies out of the control of the child or child's family

Page 14, line 26 to 27 - gives the school discretion to excuse absences for extraordinary educational opportunities pre-approved by school officials

Page 15, lines 7 to line 15 – gives the school discretion to determine whether a child is in attendance using its current recording system as long as that system ensures the student to be in attendance is present for at least 80% of the school day

SB104:

Page 2, line 8 to line 12 – gives the school discretion to consider the reason or reasons for child's absence, if available, and whether a lesser intervention would be likely to properly address the situation before requiring a meeting

Page 2, line 17 to line 19 – gives the school discretion to offer available interventions such as mental health screenings, problem solving, tutoring, and mentoring at meeting

Page 2, line 23 to line 27 – gives discretion to school to provide or pursue appropriate interventions if attendance issue involved in meeting is not resolved

SB 105:

Page 2, line 2 – gives discretion to school to determine what data is sufficient to include in report to establish the child is truant, chronically absent, or disciplinary absent

Choice for Schools and Parents

SB103:

Page 13, line 25 – provides parents the choice to provide documentation in written or electronic form

Page 13, line 26 through page 14, line 10 – provides parents the choice to provide documentation in either of the following forms unless due to illness or medical condition that lasts for more than five days:

- A signed note from a parent
- A signed note from a school employee or official who spoke in person to parent regarding absence
- A note confirming child's absence by a school nurse, licensed medical professional or an individual described under the public health code

SB 104:

Page 3, line 4 to line 9 – once a school is required to pursue court intervention, gives the school the choice on method to do so, including:

1. Request a truancy conference with the parent and child in the juvenile court
2. File a truancy petition in the juvenile court
3. Refer the matter to the prosecuting attorney

Thank you again.

Very truly yours,



Dorene S. Allen
Presiding Probate & Juvenile Court Judge
Midland County

MEMO

DATE: March 1, 2018

TO: Hon. Dorene S. Allen

FROM: Angela M. Cole

RE: Truancy Law and Criminalization

The issue is whether the proposed truancy legislation criminalizes children when they are brought under jurisdiction of the Probate Court through a petition by the school or prosecutor. The answer is no, the proposed legislation does not criminalize children. In fact, the legislation initiates help for the children with appropriate graduated interventions specifically aimed at keeping them out of the adult criminal justice system altogether.

Early Intervention Prevents Juvenile Justice Involvement

The proposed legislation provides early interventions for a child and their family to keep the child in school and prevent them from becoming truant. National experts have found the importance of regular school attendance, successful strategies for reducing truancy, and how school discipline relates to students' success and juvenile justice involvement.

Adult Court versus Juvenile Court

If a child is charged as with truancy, it is important to understand how the Juvenile Court works. Juvenile Law proceedings are not criminal in nature. The "Labeling theory"

purports if we label a child as a criminal, then they will grow up to be criminal. The focus of the juvenile process is not to punish, as in the adult system, but to rehabilitate so the children learn lifelong skills for success. A few examples of how to rehabilitate rather than punish children are: providing services such as oversight through probation, individual and family counseling, specialized school programs, foster care, life skills classes, and mentors. In order not to criminalize a child, the Juvenile Court even uses different terminology between juvenile proceedings and criminal proceedings:

Juvenile	Adult
Status Offender	Not applicable
Delinquent	Criminal
Petition	Warrant
Apprehend	Arrest
Forthwith	Unnecessary Delay
Adjudication	Trial
Disposition	Sentence

A **status offender** is one based primarily on age. Certain offenses, like truancy, would not be an offense if an adult committed the act. Please see next section labeled “Status Offenses” for more detail. A youth under 17 years of age who commits an offense that would be considered a criminal act if an adult committed the act is a **delinquent** not a **criminal**. Officers will seek a petition, not request an arrest warrant. Juveniles are **apprehended**, not **arrested**. Juveniles must be **forthwith** turned over to their parents or

the court, whereas an adult has to be brought before the court without **unnecessary delay**. The juvenile's guilt or innocence is determined in **adjudication**, not at a **trial**. After adjudication, the court will hold a **dispositional hearing**, not a **sentencing**.

Status Offenses

The difference between a delinquent act and a status offense is that a juvenile status offense is an offense which is illegal only because of the offender's age (under 18) and which is not serious. *United States v. Cole*, 418 E3d 592 (6th Cir. 2005). A status offense is one based primarily on age. Certain offenses would not be an offense if an adult committed the act. For example, if a 15 year old skips school, he would be considered a truant. However, if a 20 year old skips his college classes, the court would not take notice. In Michigan, you have to be at least 18 to purchase or possess tobacco. Here are some other examples:

- Truancy
- Running away
- Incurigibility
- Curfew violations

Status offenders are not even considered delinquents. Youth cannot be detained for a status offense. Status offenders are not booked or fingerprinted. Status offenses are merely a tool or mechanism to get wayward youth under the jurisdiction of the court so the youth and family are required to participate in services. These services help provide

the families the skills or tools the families need for the child to stay in school or uncover an underlying problem that needs a more systemic approach such as foster care.

Competency and Children under age 10

Children under age 10 cannot be found responsible for status offenses such as truancy due to competency issues. On March 28, 2013, Governor Snyder signed a bill creating the Juvenile Competency Law. Competency is the idea of the offender's ability to 1. understand the nature of the proceeding against them, and 2. meaningfully assist their attorney in their own defense. The Juvenile Competency Law clarifies that children under the age of 10 are deemed incompetent. They do not possess critical thinking skills to be competent in court.